



CITY OF FORT LAUDERDALE

**BOARD OF ADJUSTMENT MEETING
CITY OF FORT LAUDERDALE
CITY HALL COMMISSION CHAMBERS
AUGUST 11, 2021 – 6:00 P.M.**

Board Members	Attendance	Cumulative Attendance 6/2021 through 5/2022	
		Present	Absent
Howard Nelson, Chair	P	3	0
Patrick McTigue, Vice Chair	P	3	0
Howard Elfman	P	3	0
Eugenia Ellis	P	3	0
Chadwick Maxey	P	2	1
Blaise McGinley	P	3	0
Douglas Reynolds [arrived 6:15, did not vote]	P	2	1

Alternates

Michael Lambrechts	P	3	0
--------------------	---	---	---

Staff

D' Wayne Spence, Assistant City Attorney
Stephanie Hughey, Administrative Assistant
Burt Ford, Zoning Chief
Karlanne Grant, Urban Planner III
Lisa Tayar, Recording Secretary, Prototype Inc.

Communication to the City Commission

None

Purpose: Section 47-33.1.

The Board of Adjustment shall receive and hear appeals in cases involving the ULDR, to hear applications for temporary nonconforming use permits, special exceptions and variances to the terms of the ULDR, and grant relief where authorized under the ULDR. The Board of Adjustment shall also hear, determine and decide appeals from reviewable interpretations, applications or determinations made by an administrative official in the enforcement of the ULDR, as provided herein.

Index

	<u>Case Number</u>	<u>Owner/Agent</u>	<u>District</u>	<u>Page</u>
1.	PLN-BOA-21070004	SNG 1115 Investments LLC/ Stephanie Toothaker, ESQ	2	<u>2</u>
2.	PLN-BOA-21070001	Jeffrey Attanasio/ Marla Woodhouse	2	<u>5</u>
3.	PLN-BOA-21070003	Carpelo Jeoboam	1	<u>6</u>

4.	PLN-BOA-21070005	1 Harborage Investments LLC/Hope Calhoun, Esq. Communication to the City Commission For the Good of the City Other Items and Board Discussion	4	<u>8</u> <u>10</u> <u>10</u> <u>10</u>
----	-------------------------	--	---	---

I. Call to Order

The meeting was called to order at 6:01 p.m. Roll was called and a quorum determined to be present.

II. Approval of Minutes – July 14, 2021

Motion made by Ms. Ellis, seconded by Mr. McTigue, to approve the Board's July 14 2021 minutes. In a voice vote, motion passed unanimously.

III. Public Sign-In / Swearing-In

All individuals wishing to speak on the matters listed on tonight's agenda were sworn in.

Before each item, Board members disclosed communications they had and site visits made.

IV. Agenda Items

1. [Index](#)

CASE: PLN-BOA-21070004

OWNER: SNG 1115 INVESTMENTS LLC

AGENT: STEPHANIE TOOTHAKER, ESQ

ADDRESS: 1115 NE 9TH AVENUE; 1123 NE 9TH AVENUE FORT LAUDERDALE, FL., 33304

LEGAL DESCRIPTION: PROGRESSO 2-18 D LOT 12 & 13 BLK 149; PROGRESSO 2-18 D LOT 10,11 BLK 149

ZONING DISTRICT: B-3

COMMISSION DISTRICT: 2

REQUESTING:

Sec. 47-20.15.3. -Backout parking.

- Requesting a variance to allow backout parking not entirely on site and to omit the commercial use requirement of one (1) peninsular landscaped area for every four (4) spaces as per attached plans.

Sec. 47-20.15.5.b -Backout parking.

- Requesting a Variance to allow additional backout parking spaces whereas the code does not allow expansion of backout parking.

Sec. 47-20.15.5.c. - Backout parking.

- Requesting a variance to allow backout parking where residential use exist across the right-of-way where the backout parking is located.

Sec. 47-20.15.5.e. - Backout parking.

- Requesting a variance to not provide any landscape islands and perimeter landscape areas where the Code requires that landscape islands meeting the requirements of Section 47-21.12.4.c and d. be provided for every (6) parking spaces or fraction thereof and perimeter landscape areas meeting the requirements of Section 47-21.12.A.2.b.

Sec. 47-21.12.A.2.b -Landscape requirements for vehicular use areas.

- Requesting a variance to not provide perimeter landscape areas where the Code requires perimeter landscape areas along the perimeter of a parcel of land which does not abut a street the minimum depth of the landscape area to be two and one-half (2½) feet.

Sec. 47-21.12.A.4.c. -Landscape requirements for vehicular use areas.

- Requesting a variance to not provide landscape islands where the Code requires island areas to be a minimum of three-quarters ($\frac{3}{4}$) the length of the adjacent parking space by a minimum of eight (8) feet in width.

Sec. 47-21.12.A.4.d. -Landscape requirements for vehicular use areas.

- Requesting a variance to not provide landscape islands where the Code requires island landscape areas to be planted with at least one (1) tree.

Sec. 47-21.12.G. -Retroactive VUA landscaping.

- Requesting a variance to not provide any retroactive vehicular use area landscaping where the Code states that a vehicular area which existed prior to July 7, 1977 shall meet at least fifty percent (50%) of the requirements of new vehicular use areas.

Stephanie Toothaker, agent, provided a Power Point presentation, a copy of which is attached to these minutes for the public record.

Ms. Toothaker reviewed the variance criteria:

- a. That special conditions and circumstances affect the property at issue which prevent the reasonable use of such property

Ms. Toothaker stated the existing building and back-out parking were developed well before the 1997 ULDR. The building footprint was 80% of the lot coverage, so

complying with landscaping and sidewalk requirements would take up all of the existing parking.

- b. That the circumstances which cause the special conditions are peculiar to the property at issue, or to such a small number of properties that they clearly constitute marked exceptions to other properties in the same zoning district

Ms. Toothaker stated this was a heavy industrial district where this use was deemed appropriate.

- c. That the literal application of the provisions of the ULDR would deprive the applicant of a substantial property right that is enjoyed by other property owners in the same zoning district. It shall be of no importance to this criterion that a denial of the variance sought might deny to the owner a more profitable use of the property, provided the provisions of the ULDR still allow a reasonable use of the property

Ms. Toothaker said application of the ULDR would result in the property having two parking spaces.

- d. That the unique hardship is not self-created by the applicant or his predecessors, nor is it the result of mere disregard for, or ignorance of, the provisions of the ULDR or antecedent zoning regulations

Ms. Toothaker stated the situation at the property predated the code.

- e. That the variance is the minimum variance that will make possible a reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the ULDR and the use as varied will not be incompatible with adjoining properties or the surrounding neighborhood or otherwise detrimental to the public welfare.

Ms. Toothaker stated this was an existing condition with parking approved in the 1960s, and after that, the code had changed.

Ms. Toothaker reported they had several letters of support, most notably from the residents of the nearby apartment complex and another neighbor.

Mr. McGinley asked if the property could be used as a warehouse without all of the variances. Chair Nelson calculated that 1,600 square feet of the building would be allowed with two parallel parking spaces in front. Ms. Toothaker noted that landscaping islands would interfere with use of the property. Ms. Ellis pointed out that FAT Village was a warehouse district with all back-out parking, no landscaping, pedestrians, restaurants and residential. Granting the variances would allow the warehouse to be used effectively.

Chair Nelson opened the public hearing. There being no members of the public wishing to address the Board on this item, Chair Nelson closed the public hearing and brought the discussion back to the Board.

Mr. Maxey said COVID had caused the restaurant industry to rethink its models and given rise to operations such as Ghost Kitchen. He felt they should make this exception to allow businesses to function and to have new opportunities.

Motion made by Mr. Maxey, seconded by Ms. Ellis:

To approve the variances for BOA Case # **PLN-BOA-21070004** because it meets the criteria for a variance.

In a roll call vote, motion passed 6-1 with Mr. McGinley opposed.

2.

[Index](#)

CASE: PLN-BOA-21070001

OWNER: JEFFREY ATTANASIO

AGENT: MARLA WOODHOUSE

ADDRESS: 800 POINCIANA DRIVE, FORT LAUDERDALE, FL., 33301

LEGAL DESCRIPTION: IDLEWYLD 1-19 B N1/2 OF LOT 8, N1/2 9 BLK 7

ZONING DISTRICT: RS-8

COMMISSION DISTRICT: 2

REQUESTING:

Sec. 47-19.2.S.- Mechanical and plumbing equipment.

- Requesting a variance to install Two(2) mini split air condensing units 3' 2" from side yard property line whereas the code requires to be a minimum setback of 5', a total setback reduction of 1' 10".

Marla Woodhouse, agent, said they needed the setback variance for air conditioning and pool equipment. Chair Nelson pointed out that the notice was only for the air conditioning unit. Mr. Spence advised the applicant could only move forward with the portion that had been noticed, or defer until the pool equipment was added to the request. Ms. Woodhouse elected to move forward.

Ms. Woodhouse said this was a 1920s home, designed by Francis Abreu, and there were many non-conforming aspects. The only place they could locate the equipment to comply would be in the middle of the back garden area. The spot they had chosen was near a five-foot tall wall that would hide the air conditioner unit from view.

Jeffrey Attanasio, owner, said he had no letters of support from neighbors, but he had heard no objections.

Chair Nelson opened the public hearing. There being no members of the public wishing to address the Board on this item, Chair Nelson closed the public hearing and brought the discussion back to the Board.

Mr. McGinley thanked the owner for renovating the historically relevant Francis Abreu home.

Motion made by Mr. McGinley, seconded by Mr. Maxey

To approve the variance for BOA Case # **PLN-BOA-21070001** because it meets the criteria for a variance.

In a roll call vote, motion passed 7-0.

3.

[Index](#)

CASE: PLN-BOA-21070003

OWNER: CARPELO JEBOAM

AGENT: N/A

ADDRESS: 6997 NW 30TH TERRACE; 6995 NW 30TH TERRACE; 6993 NW 30TH TERRACE; 6991 NW 30TH TERRACE, FORT LAUDERDALE, FL., 33309

LEGAL

DESCRIPTION:

PALM-AIRE VILLAGE 3RD SEC ADDN 7 101-27 B A POR OF PAR "A" DESC AS: COMM AT SE COR OF SAID PAR "A", W ALG S/L 125.68, N 10 TO POB, W 35.40, N 23.58, NE 9.66, E 28.57, S 30.41 TO POB AKA: UNIT D LYONS TOWNHOMES; PALM-AIRE VILLAGE 3RD SEC ADDN 7 101-27 B A POR OF PAR "A" DESC AS: COMM AT SE COR OF SAID PAR "A", W ALG S/L 90.68, N 10 TO POB, W 35, N 30.41, E 35, S 30.41 TO POB AKA: UNIT C LYONS TOWNHOMES; PALM-AIRE VILLAGE 3RD SEC ADDN 7 101-27 B A POR OF PAR "A" DESC AS: COMM AT SE COR OF SAID PAR "A", W ALG S/L 55.68, N 10 TO POB, W 35, N 30.41, E 35, S 30.41 TO POB AKA: UNIT B LYONS TOWNHOMES; PALM-AIRE VILLAGE 3RD SEC ADDN 7 101-27 B A POR OF PAR "A" DESC AS: COMM AT SE COR OF SAID PAR "A", W ALG S/L 20.28, N 10 TO POB, W 35.40, N 30.41, E 28.57, SE 9.66, S 23.58 TO POB AKA: UNIT A LYONS TOWNHOMES; PALM-AIRE VILLAGE 3RD SEC ADDN 7 101-27 B PARCEL "A", LESS POR DESC AS: COMM AT SE COR OF SAID PAR "A", W ALG S/L 20.28, N 10 TO POB, W 140.80, N 23.58, NE 9.66, E 127.14, SE 9.66, S 23.58 TO POB AKA: COMMON AREA LYONS TOWNHOMES.

ZONING DISTRICT: RMH-25

COMMISSION 1
DISTRICT:

REQUESTING:

Sec. 47-18.33.B.12.b - Single family dwelling, attached: Townhouses. Driveways.

- Requesting a variance to omit the installation of structural soil related to planting a canopy tree.

Sec. 47-18.33.B.12.c - Single family dwelling, attached: Townhouses. Driveways.

- Requesting a variance to omit the landscaped pervious area, the canopy tree, and the continuous shrub planting.

Carpelo Jeoboam, owner, gave a Power Point presentation, a copy of which is attached to these minutes for the public record. He said a previous owner had begun the project and when he took it over, the landscape islands between the garages were not yet required by code [as they now were]. He said they were in permitting now and had passed the landscape requirements.

Mr. Jeoboam pointed out where the planting areas would need to be to comply with the code. They intended to replace the structural soil area and vegetative buffer area with the planters shown on the plans. Mr. McGinley said again, they were coming up short on landscaping.

Chair Nelson said two letters of objection had been received. The objections were: they wanted the project to meet every requirement, and they wanted the structural soil so trees would not blow over.

Chair Nelson opened the public hearing.

Donna Mergenhagen, neighbor and President of the Palm Aire Village Association, presented two additional letters of objection into the record. She provided a brief history of the area and said it had intensive canopy coverage. She showed photos from her development and of the empty lot where this project was proposed. Ms. Mergenhagen said they felt the variances would not be compatible with the neighborhood.

Mr. Ford described the area where the continuous shrub planting would need to be if the variance were not granted: in the two islands that separated the two garages. He explained that the code had been amended to reduce the prominence of garages along front facades of duplexes, townhomes and cluster home developments. Garages were required to be eight feet apart or to have an island with structural soil and plantings separating the garages. Chair Nelson stated the applicant proposed installing a planter instead of the islands and Mr. Ford confirmed that this was how this had been approved prior to the code amendment.

Ms. Mergenhagen said she had sent a letter from the Palm Aire Village Condominium 1 Association to her Commissioner and to Mohammed Malik, Zoning Administrator. She read the letter, which referred to notice issues, their opposition to the variance requests

and concerns about the effects the construction staging would have on the area. Regarding the notice issues, Mr. Spence stated failure to receive notice sent via the mail was not grounds to invalidate the hearing, as notice was not mandatory.

Mr. Jeoboam noted that he was actually providing more landscaping than was required, just not in the two garage islands.

There being no other members of the public wishing to address the Board on this item, Chair Nelson closed the public hearing and brought the discussion back to the Board.

Mr. McGinley said as an architect, he was constantly being pushed to make landscaping smaller, with little, if any, consideration for the neighborhood. This variance ran contrary to the intent of the code, which was to camouflage the garages from a major thoroughfare. Mr. Jeoboam reiterated that they were exceeding the landscape requirements on the lot.

Motion made by Mr. McGinley, seconded by Mr. McTigue

To approve the variance for BOA Case # **PLN-BOA-21070003** because it meets the criteria for a variance.

In a roll call vote, motion passed 6-1 with Mr. Maxey opposed.

4.

[Index](#)

CASE:	PLN-BOA-21070005
OWNER:	1 HARBORAGE INVESTMENTS LLC
AGENT:	HOPE CALHOUN, ESQ., DUNAY, MISKEL & BACKMAN LLP
ADDRESS:	1 HARBORAGE ISLE DRIVE, FORT LAUDERDALE, 33316
LEGAL DESCRIPTI ON:	12-50-42 COMM AT NE COR GOV LOT 3 OF SEC 13-50-42, W 2.47, N 514.11, SWLY 413.89, NWLY 33.90 TO POB, CONT NWLY 110, NELY 206.09, SE 85.80 TO PT OF CUR, SLY ARC DIST 40.73, SW 203.69 TO POB, AS DESC IN OR 3895/204 AKA LOT 1 THE HARBORAGE
ZONING DISTRICT: COMMISSI ON	RS-4.4 4
DISTRICT: REQUESTI NG:	
	<u>Sec. 47-5.30 Table of dimensional requirements for the RS-4.4 district. (Note A).</u>

- Requesting a variance to reduce the minimum corner yard setback from 25 feet to 10 feet. A total setback reduction of fifteen(15) feet.
- Requesting a variance to eliminate the requirement to increase the side yard setback by one(1) foot for every additional foot of building height above 22 feet, from thirteen(13) feet to ten(10) feet, a total reduction of three(3) feet, per the shaded area on plan sheet A4. **WITHDRAWN**

Hope Calhoun, agent, discussed the request, and said they had withdrawn one variance request. She presented a letter of support from a neighbor into the record. She showed an aerial photo of the area and indicated where the variance request would apply. They intended to demolish the existing home and rebuild in essentially the same footprint. She displayed a rendering of the proposed home.

Ms. Calhoun reviewed the variance criteria:

- a. That special conditions and circumstances affect the property at issue which prevent the reasonable use of such property

Ms. Calhoun noted that this lot was narrower than other lots on the island.

- b. That the circumstances which cause the special conditions are peculiar to the property at issue, or to such a small number of properties that they clearly constitute marked exceptions to other properties in the same zoning district

Ms. Calhoun reiterated that this lot was different from others.

- c. That the literal application of the provisions of the ULDR would deprive the applicant of a substantial property right that is enjoyed by other property owners in the same zoning district. It shall be of no importance to this criterion that a denial of the variance sought might deny to the owner a more profitable use of the property, provided the provisions of the ULDR still allow a reasonable use of the property

Ms. Calhoun stated they were trying to develop harmoniously with neighboring properties.

- d. That the unique hardship is not self-created by the applicant or his predecessors, nor is it the result of mere disregard for, or ignorance of, the provisions of the ULDR or antecedent zoning regulations

Ms. Calhoun said they were keeping to the existing footprint to accommodate the unique type of housing on the island without interfering with others.

- e. That the variance is the minimum variance that will make possible a reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the ULDR and the use as varied will not be incompatible with adjoining properties or the surrounding neighborhood or otherwise detrimental to the public welfare.

Ms. Calhoun stated homes in this area were unique and other homes probably had the same condition.

Mr. Maxey wanted to know if the applicant had received approval from the homeowners association. Ms. Calhoun said she and her client had met with members of the board and her client had agreed to the terms of the letter presented.

Chair Nelson opened the public hearing. There being no members of the public wishing to address the Board on this item, Chair Nelson closed the public hearing and brought the discussion back to the Board.

Motion made by Mr. McGinley:

To deny the variance for BOA Case # **PLN-BOA-21070005** because it does not meet the criteria for a variance.

Mr. McGinley withdrew his motion.

Motion made by Mr. McTigue, seconded by Ms. Ellis

To approve the variance for BOA Case # **PLN-BOA-21070005** because it meets the criteria for a variance.

In a roll call vote, motion passed 6-1 with Mr. McGinley opposed.

Communication to the City Commission

[Index](#)

None

Report and for the Good of the City

[Index](#)

Chair Nelson asked about the fence code update. Karlanne Grant, Urban Planner III, gave a Power Point update, a copy of which is attached to these minutes for the public record. Staff had determined that the issue was how the height of the fence was measured, and the grade definition. Staff was recommending the fence height be measured from the base FEMA flood elevation of the development site. The City Commission supported the amendment, so staff was moving forward. It would be presented to the Planning and Zoning Board the following week, and staff hoped to have it approved by the City Commission by April 2022.

Chair Nelson recalled several fence height variance requests had been denied because of this issue and asked staff to let these applicants know that there had been a code change and they would be able to pull a permit. Mr. Ford agreed.

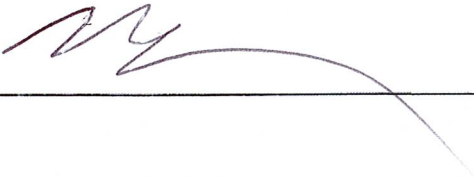
Other Items and Board Discussion

[Index](#)

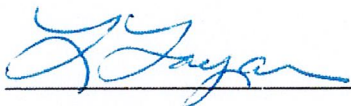
None

There being no further business to come before the Board, the meeting adjourned at 7:29 p.m.

Chair:



Attest:



ProtoType Inc.

Any written public comments made 48 hours prior to the meeting regarding items discussed during the proceedings have been attached hereto.